



CITY OF HAYWARD AGENDA REPORT

Meeting Date: 7/18/02

Agenda Item: 1

TO: Planning Commission

FROM: Norman Weisbrod, Consulting Project Planner

SUBJECT: Appeal of Planning Director's Denial of Variance Application No. PL-2002-0315 – Maria Cobian (Applicant/Owner): Request to Allow Retention of an Accessory Structure with Less Than the Required 5-Foot Setback and a Request to Depart from the Design Guidelines (Roof and Building Materials Required to Match House).

The Property Is Located at 744 Douglas Street in the RS (Single-Family Residential) and CG (General Commercial) Zoning Districts

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305 (a) Minor Alterations in Land Use Limitations; and
2. Uphold the Planning Director's action, only if the applicant agrees to specific conditions of approval.

BACKGROUND:

The property is located on the north side of Douglas Street just easterly of Mission Boulevard. The lot has 100 feet of frontage on Douglas Street and is 80.88 feet in depth with an area of 8100 square feet. The easterly 60 feet of the parcel is in the RS (Single-Family) Zoning District and the westerly 40 feet is in the CG (General Commercial) Zoning District. All of the improvements including the home and accessory structure are located on the easterly portion of the property in the RS District. The westerly portion of the property in the CG District is being used as a yard.

The property is developed with a 1,190-square-foot three-bedroom and 1 ½-bath home and a 548-square-foot accessory structure located behind the home. It appears as though the accessory structure was once a garage. The accessory structure is setback 3 feet 11 inches from the rear property line and 3 feet 8 inches from the side property line where at least 5 feet is required between the structure and the property lines. The main portion of the accessory structure is

constructed of concrete block with a flat roof tar and gravel roof. A bathroom and kitchen has been added to the structure and it has been used in the past as a dwelling unit. It appears that the structure was originally constructed as a garage and there is a simulated garage door facing the driveway and street. However, there are no records that the structure was constructed with a building permit. As such, the structure is illegal and nonconforming. The exterior of the home is horizontal wood siding with a hip roof. The City of Hayward Design Guidelines require that larger accessory buildings be designed with all exterior surfaces consistent with the primary structure. This accessory structure is not consistent with the design of the existing home. If the variance is approved, staff recommends the structure be converted back into a garage including the removal of the kitchen and bathroom and any interior improvements that would interfere with the parking of two cars. This will include the installation of a new garage door for vehicular access to the structure. To meet the City's Design Guidelines, siding would have to be added to the front of the garage to match that found on the main dwelling as well as a roof to match the main dwelling.

The applicant indicates that the accessory structure was being used as a dwelling unit at the time she purchased the home. Community Preservation informed the property owner that the structure cannot be used as a dwelling unit, that it is too close to the side and rear property line, and that there are no building permits for the structure. The homeowner has two options: either seek approval of a variance to allow it to remain in place or modify the structure to conform to setback and design requirements. The homeowner applied for the variance, which was administratively denied by the Planning Director because it was an accessory structure used as a dwelling unit. The applicant appealed the denial, and the matter is being forwarded to the Planning Commission for its consideration. After further review, staff believes the variance can be supported to the side and rear yard setback as long as the structure is converted back to a garage and modifications are made to the structure to be visually compatible with the home in accordance with the City's Design Guidelines.

Staff believes that the required findings to approve the variance for a garage can be made. The property is unusual in that the westerly 40 feet of this property is zoned (CG) General Commercial District. In the CG District, residential structures are not permitted. This restricts the portion of the property that can be developed with residential structures. Further, the dwelling lacks a two-car garage, and two-car garages are required for single-family dwellings. There is no other reasonable location on the residentially zoned portion of the property to locate a garage. In addition, there is a garage on the property immediately behind the applicant's property to the north, which enjoys a similar setback. Also, there is a grade difference between subject property and the adjacent property to the east, which reduces the impact of the loss of light and air to the adjacent parcel. If the variance request is approved, the applicant would have to remove the kitchen and bathroom, install a garage door wide enough to accommodate two cars, construct a hip roof on the garage to match the home, and modify the exterior of the accessory structure to be compatible with the single-family home.

ENVIRONMENTAL REVIEW

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305 (a) Minor Alterations in Land Use Limitations; and

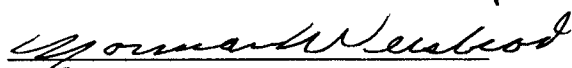
PUBLIC NOTICE

On July 8, 2002, a Notice of Public Hearing for the Planning Commission meeting was mailed to all property owners and residents within 300 feet of the project site.

CONCLUSION

It is staff's opinion that there are special circumstances applying to this property that would support the granting of the variances to the rear yard or interior side yard setbacks for a garage only since garages are required and other accessory structures are not. Other homes in the vicinity that are not in a split zoning district have adequate room to construct a two-car garage without the need for a variance for the side and rear yard setback.

Prepared by:



Norman Weisbrod
Consulting Project Planner

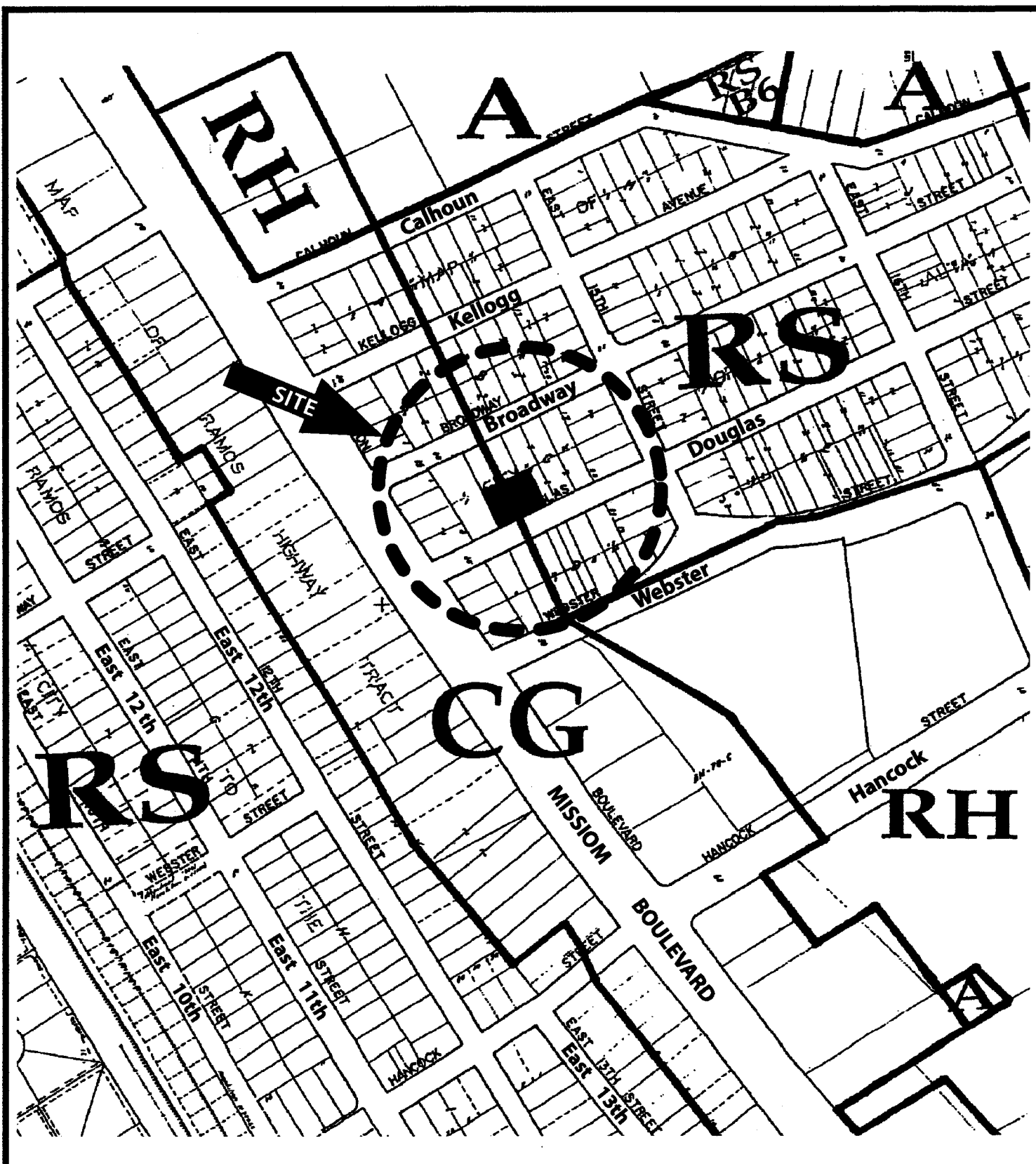
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Approval
- C. Conditions of Approval



Area & Zoning Map

PL-2002-0315 VAR

Address: 744 Douglas Street

Applicant: Maria Cobian

Owner: Maria Coban

A-Agricultural-ABSA,AB10A,AB100A,AB160A

CG-General Commercial

RH-High Density Residential RHB 7

RS-Single-Family Residential,RSB4,RSB6

**CITY OF HAYWARD
PLANNING DIVISION
ADMINISTRATIVE VARIANCE
FINDINGS FOR APPROVAL**

July 18, 2002

VARIANCE APPLICATION NO. PL-2002-0315: MARIA COBIAN (APPLICANT/OWNER) – Appeal of Planning Director Denial of Variance Application No. PL-2002-0315 – Maria Cobian (Applicant/Owner): Request to Allow Retention of an Accessory Structure with Less Than the Required 5-Foot Setback

The property is located at 744 Douglas Street in an RS District (Single-Family Residential) and CG (General Commercial) Zoning District (APN 078C-0638-004-00).

FINDINGS FOR APPROVAL

- A. Variance Application No. PL-2002-0315 to retain a 548 square foot accessory building with a 3-foot 11-inch rear yard and a 3-foot 8-inch interior side yard in lieu of the minimum rear and interior side yard of 5 feet in the Single-Family Residential District is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15305 (a) Minor Alterations in Land Use Limitations;
- B. Based on the location and configuration of the applicant's property, special circumstances are applicable to the property. The portion of the applicant's parcel zoned RS is 4,853 square feet in area, which is smaller than the standard lot in that zoning district. The location of the existing home on the property, and the split zoning, leaves limited area for the construction of a garage without the need for a variance to the required 5-foot setbacks.
- C. Strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property in the vicinity under the same zoning classification. There are other accessory structures used as garages in the neighborhood that are closer than 5 feet to the rear and side property lines.
- D. The granting of a variance would not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated. The granting of the variance to the side and rear setback for an accessory building to be used as a garage will allow the applicant to comply with the parking requirement for a single-family home. Conditions of approval would require conformance with the City's Design Guidelines.

**CITY OF HAYWARD
PLANNING DIVISION
VARIANCE APPROVAL**

July 18, 2002

VARIANCE APPLICATION NO. 2002-0315: Maria Cobian (Applicant/Owner) – To allow a 548 square foot accessory structure with a 3' 8" side yard and a 3' 11" rear yard (5' required), and a request to depart from the design guidelines (roof required to match house).

The property is located at 744 Douglas Street (APN 078C-0638-004-00), located in the Single-Family Residential Zoning District (RS)

CONDITIONS OF APPROVAL

1. Variance Application No. 2002-0315, to allow a 548 square foot accessory structure with a 3' 8" side yard and a 3' 11" rear yard (5' required) is approved by the Planning Commission on July 18, 2002, subject to these conditions of approval and the plans labeled Exhibit A.
2. This approval is void one year after the effective date of approval unless a building permit application has been submitted and accepted for processing by the building Official. Any modifications to the approved site plan or conditions shall require prior review and approval from the Planning Director.
3. Prior to issuance of a certificate of occupancy, the applicant shall enter into a deferred street improvement agreement for curb gutter sidewalk and street trees, details subject to approval of the City Engineer.
4. The kitchen and bathroom shall be removed from the structure within 60 days from approval of the variance, details subject to approval of the Planning Director.
5. A garage door shall be installed on the front of the accessory structure, details subject to approval of the Planning Director.
6. A hip roof to match the roof on the home shall be installed on the accessory structure, details subject to approval of the Planning Director.
7. The exterior of the accessory structure shall be modified to match the exterior of the home, details subject to approval of the Planning Director.
8. The property owner shall obtain all necessary building permits from the City of Hayward Building Division within 60 days of approval of the variance. All improvements to the structure shall be completed within 90 days thereafter or the

structure shall be removed. Compliance with all Uniform Building Code and Uniform Fire Code standards is required.

9. Prior to final inspection/occupancy of the accessory structure, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director.